

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

IN RE:)	
Oliver Lawrence)	
Debtor)	Case No. 17-30339-KRH
)	Chapter 13
)	

RESPONSE TO MOTION FOR VOLUNTARY DISMISSAL BY DEBTOR

COMES NOW, your Chapter 13 Trustee, by Counsel, and responds to Debtor's Motion for Voluntary Dismissal as follows:

1. The debtor's case was filed on January 24, 2017.
2. Though having knowledge of the 341 hearing, the debtor failed to appear at the 341 hearing. There were two creditors representing themselves and two counsels for a creditor present.
3. Based upon information in the Trustee's Motion to Convert, and based upon information in the U.S. Trustee's Motion to Convert, this case needs to be converted to a Chapter 7 case, and not dismissed to allow a Chapter 7 Trustee to examine assets, and transfers made by the debtor.
4. The debtor is acting in bad faith by filing a Motion to Dismiss, and failing to disclose all correct information on his bankruptcy schedules filed in the case.
5. The debtor in *Gorman v. Abebe*, 23012 WL 6965718 (E.D. Va. 2012) filed a Motion to Sell Real Estate for Short Sale, but it was discovered that she would receive an amount of \$25,000.00 of the proceeds. The debtor and Trustee came to an agreement that the debtor would receive \$6,000.00, and the Trustee would receive \$19,000.00 for distribution to creditors of the debtor. After the sale, the debtor moved for Voluntary Dismissal of her case under 1307 (b). The Trustee lost on his Motion to Vacate the Dismissal at the Bankruptcy Court level, and appealed to the District Court, which reversed the Bankruptcy Court's ruling and held that the right to dismiss is not absolute, and is only absolute as to good faith debtors. The District Court cited *Marrama v. Citizens Bank of Massachusetts*, 549 U.S. 365 (2007) stating "that a debtor is no longer entitled to seek benefits under the code where the debtor has tried to take advantage of the Bankruptcy forum".
6. The debtor in *In Re Criscuolo*, 2014 WL 1910078, received a substantial \$1 million earning for one year during the course of his plan, and concealed that from the Trustee. The Trustee moved to dismiss the case with prejudice, and to retain and disburse a large

sum received in the amount of \$70,000.00 tendered to the Trustee under an unconfirmed modified plan term. Based upon *In Re Abebe*, and *In Re Mitrano*, 472 B.R. 706 (E.D. Va. 2012), (In the case of *In Re Mitrano*, the debtor acted in bad faith, and was untruthful in his schedules filed, and his case was dismissed with prejudice barring refilling against unsecured claimholders per the claims filed), the Court held that while the Trustee had to return the large sum, with deduction of administrative expenses, due to the lack of a confirmed plan or other order directing the debtor pay the \$70,000.00 funds to the Trustee, the Trustee's Motion to Dismiss with prejudice was granted stating "that the Court retained the authority to sanction a debtor for bad faith conduct as long as the sanctions do not contravene any explicit provisions of the Bankruptcy Code".

WHEREFORE, the Chapter 13 Trustee respectfully requests that the Court deny the debtor's Motion to Voluntarily Dismiss.

Carl M. Bates
Chapter 13 Trustee
BY COUNSEL:
/s/Susan H. Call
Susan H. Call

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2017, a copy of the foregoing Response was electronically transmitted and/or mailed, first class mail, postage prepaid, to Debtor, Oliver Lawrence, at 12384 Mechumps Creek Lane, Ashland, VA; to Aubrey F. Hammond, Jr., Esquire, at aubreyhammond@netscape.net, Counsel for the Debtor, and to all necessary parties in interest.

/s/ Susan H. Call
Susan H. Call, VSB #34367
Staff Counsel for Carl M. Bates,
Chapter 13 Trustee

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NOTICE OF RESPONSE AND NOTICE OF HEARING

The Chapter 13 Trustee has filed papers with the Court to request a hearing on the Debtor's Voluntary Motion to Dismiss.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views on the Motion, then on or before seven (7) days before the date of the hearing, you or your attorney must:

File with the Court, at the address shown below, a written response pursuant to Local Bankruptcy Rule 9013-1(H). If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street
Richmond, VA 23219

You must also mail a copy to:

Susan H. Call
Counsel for Carl M. Bates
Chapter 13 Trustee
P. O. Box 1890
Richmond, Virginia 23218-1780

Susan H. Call, Esquire
Staff Counsel for
Carl M. Bates, Chapter 13 Trustee
P.O. Box 1819
Richmond, VA 23218-1819
(804) 237-6800
VSBN 34367

Attend the Hearing scheduled to be held on March 29, 2017, at 11:30 A.M., at the U.S. Bankruptcy Court, 701 East Broad Street, Room 5000, Richmond, Virginia, 23219.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

s/ Susan H. Call
Susan H. Call, VSB #34367

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice was served by first-class mail, postage prepaid, March 6, 2017, to Oliver Lawrence, at 12384 Mechumps Creek Lane, Ashland, VA; to Aubrey F. Hammond, Jr., Esquire, at aubreyhammond@netscape.net, Counsel for the Debtor, and to all necessary parties in interest.

/s/ Susan H. Call
Susan H. Call, VSB #34367
Staff Counsel for Carl M. Bates,
Chapter 13 Trustee

Label Matrix for local noticing
0422-3
Case 17-30339-KRH
Eastern District of Virginia
Richmond
Thu Mar 2 14:55:23 EST 2017

Synchrony Bank c/o PRA Receivables Management
PO Box 41021
Norfolk, VA 23541-1021

United States Bankruptcy Court
701 East Broad Street
Richmond, VA 23219-1888

AllianceOne
PO Box 3102
Southeastern, PA 19398-3102

Alvina E. L. Manuel
4911 Wood Thrush Cir
Apt. 101
Henrico, VA 23231-2833

American Express
PO Box 981537
Attn: Bankruptcy Dept.
El Paso, TX 79998-1537

Barclays Bank Delaware
125 S. West Street
Wilmington, DE 19801-5014

Beach Receivables Company, LLC
c/o Charles A. Gavin
1409 Eastridge Rd
Henrico, VA 23229-5501

Capital One Bank
P.O. Box 71083
Attn: Bankruptcy Dept.
Charlotte, NC 28272-1083

Citibank South Dakota NA
c/o Glasser and Glasser
PO Box 3400
Norfolk, VA 23514-3400

City of Richmond
Div. of Tax Collection
P.O. Box 26624
Richmond, VA 23261-6624

City of Richmond - Dept. of Public Utilities
730 E. Broad Street, 5th Floor
Richmond, Va 23219-1861

Credit One
P.O. Box 625
Attn: Bankruptcy Dept.
Metairie, LA 70004-0625

DEPARTMENT OF THE TREASURY - IRS
Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

First Capital Bank
c/o J. P. McGuire Boyd, Jr.,
200 South 10th Street
Richmond, VA 23219-4091

First Data Global Leasing
by American InfoSource LP as agent
PO Box 248838
Oklahoma City, OK 73124-8838

(p)FOCUSED RECOVERY SOLUTIONS
9701 METROPOLITAN COURT
STE B
RICHMOND VA 23236-3690

Fox Head Homeowners Assn
c/o Solodar and Solodar
11504 Alleeingie Pkwy #100
Richmond, VA 23235-4317

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Henrico, VA 23228-3667

Jose A. Juarez
4119 Townhouse Road
J
Henrico, VA 23228-5316

Luis F. Huerta
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Henrico, VA 23294-5712

Luis Francisco Huerta, et al
c/o Robert F. Redmond, Jr. Esq
PO Box 1320
Richmond, VA 23218-1320

Luis M. Gomez
4507 Watchspring Drive
Richmond, VA 23234-6129

Maynor M. M. Bonilla
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Richmond, VA 23225-6030

Queen Harris
c/o Dale W. Pittman, Esq
112-A W. Tabb St
Petersburg, VA 23803-3212

Queen Harris
c/o Thomas D. Domonoske, Esq
763 J. Clyde Morris Blvd, #1A
Newport News, VA 23601-1533

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Henrico, VA 23229-3035

Rosa Yesenia Miranda
3303 Fox Chase Drive
Midlothian, VA 23112-4415

Sherman Hubert Company, LLC
c/o Charles Gavin
1409 Eastridge Road
Henrico, VA 23229-5501

Synchrony Bank
c/o of PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

Towne Bank
6001 Harbour View Blvd
Suffolk, VA 23435-2767

(P) VIRGINIA DEPARTMENT OF TAXATION
P O BOX 2156
RICHMOND VA 23218-2156

Yvette Taylor
1214 Claiborne Street
Richmond, VA 23220-6474

Yvonne Taylor
2542 Whitcomb Street
Richmond, VA 23223-3856

Aubrey F. Hammond Jr.
16 North 8th Street
First Floor
Richmond, VA 23219-3302

Carl M. Bates
P. O. Box 1819
Richmond, VA 23218-1819

Oliver Lawrence
12384 Mechumps Creek Lane
Ashland, VA 23005-7838

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Focused Recovery Solutions
9701 Metropolitan Court
Suite B
Richmond, VA 23236-0000

VA Department of Taxation
P.O. Box 1115
Attn: Bankruptcy Dept.
Richmond, VA 23218-0000

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u) Fireman's Fund Insurance Co.
c/o Eliades Law Firm PLLC
731 W. Broadway
MS 38600-0000

End of Label Matrix
Mailable recipients 36
Bypassed recipients 1
Total 37